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| 09/811,705      | 03/18/2001  | Robert Charles McCord |                     | 9462             |

7590 04/11/2001  
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| EXAMINER |
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SHAFFER, RICKY D

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| ART UNIT | PAPER NUMBER |
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2872

DATE MAILED: 04/11/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/811,705

Applicant(s)

McCORD

Examiner

R.D. SHAFER

Group Art Unit

2812

— The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address —

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTHS MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- ☒ Responsive to communication(s) filed on 1/23/03
- ☐ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

- ☒ Claim(s) 1-17 is/are pending in the application.
- Of the above claim(s) 9 is/are withdrawn from consideration.
- ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- ☒ Claim(s) 1-8 is/are rejected.
- ☒ Claim(s) 10-17 is/are objected to.
- ☐ Claim(s) \_\_\_\_\_ are subject to restriction or election requirement

## Application Papers

- ☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119 (a)-(d).
- ☐ All ☐ Some\* ☐ None of the:
- ☐ Certified copies of the priority documents have been received.
- ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_
- ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a))

\*Certified copies not received: \_\_\_\_\_

## Attachment(s)

- ☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_
- ☒ Notice of Reference(s) Cited, PTO-892
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Interview Summary, PTO-413
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Other \_\_\_\_\_

Office Action Summary

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1. Applicant's election with traverse of species "A", depicted by Fig. 1, in Paper No. 6 is acknowledged. The traversal would be to be on the ground(s) that the species are sufficiently related and share some common concept. This is not found persuasive because the restriction requirement set forth in Paper No. 5 is based on the claimed structural differences between the various species and not on their similarities. Continued search and examination of claim(s) to a non-elected species having substantially different structural limitations is a prima facie showing of burden. Applicant may overcome the requirement for restriction by presenting an allowable linking claim or by providing a clear admission on the record that the claim(s) drawn to a given non-elected species is not patentably distinct from the elected species.

The requirement is still deemed proper and is therefore made FINAL.

2. Claim 9 is withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species. Election was made with traverse in Paper No. 6.

3. In view of Applicant's remarks filed on 1/23/03, the examiner hereby withdraws the species requirement between Figures 5A, 5B, 5C, 5D, 5E, 5F and 6 as being not patentably distinct from each other.

4. Claims 1-8 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

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In claim 1, lines 5-10, the language “as a function...right eye “ is vague, indefinite and fails to particularly point as distinctly claim the range of the ratio of the apparent image size seen. Thus, the metes and bounds of the apparent image size seen is unclear.

In claim 2, lines 5-17, the language “the ratio...respectively” is vague, indefinite and fails to particularly point as distinctly claim the range of the ratio of the instantaneous magnification factors. Thus, the metes and bounds of the instantaneous magnification factors is unclear. Moreover, is unclear what is the specified focus line and principle vehicle applicant is referring too.

In claim 3, lines 1-7, the language “the ratio...respectively “ is vague, indefinite and fails to particularly point as distinctly claim the range of the ratio of the instantaneous horizontal magnification factors. Thus, the metes and bounds of the instantaneous horizontal magnification factors is unclear. Moreover, is unclear what is the specified focus line and principle vehicle applicant is referring too.

In claim 4, lines 1-7, the language “the ratio...respectively “ is vague, indefinite and fails to particularly point as distinctly claim the range of the ratio of the instantaneous exponential area approximation magnification factors. Thus, the metes and bounds of the instantaneous exponential area approximation magnification factors is unclear. Moreover, is unclear what is the specified focus line and principle vehicle applicant is referring too.

In claim 5, lines 1-8, the language “the ratio...respectively “ is vague, indefinite and fails to particularly point as distinctly claim the range of the ratio of the instantaneous simulated viewed

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area magnification factors. Thus, the metes and bounds of the instantaneous simulated viewed area magnification factors is unclear. Moreover, is unclear what is the specified focus line and principle vehicle applicant is referring too.

In claim 6, lines 1-12, the language "the ratio...rear " is vague, indefinite and fails to particularly point as distinctly claim the range of the ratio of the instantaneous simulated volume magnification factors, and the horizontal, vertical and longitudinal factors. Thus, the metes and bounds of the instantaneous simulated volume magnification factors, and the horizontal, vertical and longitudinal factors is unclear. Moreover, is unclear what is the specified focus line and principle vehicle applicant is referring too. Furthermore, the use of the language "ie:" is vague and indefinite.

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1-8 are rejected under 35 U.S.C. 102(b) as being anticipated by Japanese Patent ('978), Manfre et al ('129) or Kondo et al ('542).

To the extent the claims are definite, Japanese Patent ('978), Manfre et al ('129) and Kondo et al ('542) each disclose an aspheric mirror including a mirror surface having angular iterations from one point to another point, note figures [ (1-4, 11-13), (1-6), (1-11)], respectively,

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wherein the mirror surface would inherently have a magnification ratio due to the eye separation of a driver.

7. Claims 10-17 are objected to under 37 CFR 1.75(c) as being in improper form because a multiple dependent claim cannot depend from any other multiple dependent claim. See MPEP § 608.01(n). Accordingly, the claimd 10-17 have not been further treated on the merits.

8. Any inquiry concerning this communication should be directed to R.D. Shafer at telephone number (703) 308-4813.

RDS

April 6, 2003

*R.D. Shafer*  
R.D. SHAFER  
PATENT ATTORNEY  
2012